eTHE HON'BLE MR JUSTICE RAMESH RANGANATHAN

WRIT PETITION No.13068 of 2004

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Dated 02.12.2005

Between:

P. Krishnamachary, S/o. P. Pattabhiramacharyulu,
R/o. of Sarada Nagar, Mehdipatnam, Hyderabad.

..... PETITIONER

AND

The Transmission Corpn., of A.P. Ltd. Vidyuth Soudha, Hyderabad, rep by its Chairman and Managing Director & others.

.....RESPONDENTS

THE HON'BLE MR JUSTICE RAMESH RANGANATHAN

WRIT PETITION No.13068 of 2004

O R D E R:

The present writ petition is filed to declare the action of the respondents, in seeking to recover a sum of
Rs.6,45,229.10 ps from the terminal benefits of the petitioner on the ground that it represents 15% of the pecuniary loss caused to the respondents, as arbitrary and illegal.

From the impugned memo dated 08.07.2004, it is clear that the amount of Rs.6,45,229.10 ps, which the respondents seek to recover is on the basis that, in the departmental enquiry, it was established that fraudulent payments had been made to certain contractors, and that the petitioner had actively indulged

in these nefarious acts and had abused his official position as a stenographer/P.A. to the Member (Accounts). Since the very basis of the impugned memo dated 08.07.2004 is the finding of the Enquiry Officer holding the petitioner guilty of the charges, which Enquiry, in its entirety has been set aside in W.P.No.22856 of 2003 on the ground of violation of principles of natural justice, the impugned memo dated 08.07.2005 is therefore set aside.

Sri K.S.Murthy, learned counsel for the petitioner, would urge that since the impugned memo is now set aside, the petitioner be paid his terminal benefits including the amount representing commutation of pension.

Sri N.Subba Reddy, learned Senior counsel appearing for the respondents, would however submit that if the petitioner is permitted to walk away with the terminal benefits, any action which the respondents propose to take would become redundant and the respondent Board would not be in a position, even if petitioner's guilt is later established in the domestic enquiry which they propose to hold, to recover any amount from the petitioner, towards the loss caused to the respondent Corporation.

Keeping larger public interest in mind and in view of the serious allegations of fraud, in which the petitioner is alleged to have played an important part, I deem it appropriate to hold that any action which the respondents intend to take, against the petitioner, shall be taken within a period of eight months from today, failing which, the petitioner shall be paid the entire terminal benefits due to him.

Needless to state that payment of the terminal benefits shall be subject to the outcome of any action which the respondents may take against the petitioner. It is also made clear that this order shall not preclude the petitioner from questioning any such action taken against him by the respondents. All other questions raised in the writ petition are also left open for challenge, if need be, in appropriate proceedings.

The writ petition is allowed to the extent indicated above. There shall however be no order as to costs.

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02.12.2005

Note:Furnish copy within ten days

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